IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 3RD OCTOBER 2007 / 11TH ASWINA 1929

Crl.MC.No. 3050 of 2007()

CC.747/2004 of JUDL.MAGISTRATE OF FIRST CLASS COURT-V, TRIVANDRUM

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PETITIONER: ACCUSED

S.VIJAYAN, PROPRIETOR,
ATTUKAL DEVI ENGINEERING WORKS,
NEAR VAZHAYELA BRIDGE,
PEROORKADA, THIRUVANANTHAPURAM.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

2. K.RAMACHANDRAN NAIR,
'PARADISE', T.C.6/3, MANNARAKONAM,
VATTIYOORKAVU, THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.3050 Of 2007

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Dated this the 3rd day of October, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable under Section 138 of the Negotiable Instrument Act. The petitioner entered appearance and was enlarged on bail on 21.04.07. On 31.07.07, the petitioner could not appear before the learned Magistrate as there was a call for 'hartal'. On that day public conveyance was not available. The petitioner's counsel could not also reached the Court. The learned Magistrate reckoning the petitioner as absent has issued an non-bailable warrant of arrest against the petitioner.

2. The petitioner is willing to surrender before the learned Magistrate and seek regular bail but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that appropriate directions under Section 438 and /482 Cr.P.C may be issued in favour of the petitioner.

3. In the peculiar facts and circumstances of this case, I am

satisfied that the prayer of the petitioner deserves to be allowed. The following directions are issued.

i) The warrant of arrest issued against the petitioner shall not be executed till 11.12.07. The petitioner shall appear before the learned Magistrate on that day. The application of the petitioner shall be considered by the learned Magistrate on merits in accordance of law and expeditiously-on the date of surrender itself.

Sd/-

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE